

August 21, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT

SUBJECT: Department of Development and Environmental Services File No. **L99P3017**

BRANDT'S NORTH KIRKLAND ADDITION
Preliminary Plat Application

Location: 13303 – 132nd Avenue Northeast

Applicant: **Robert Brandt**
225 – 4th Avenue, Suite A603
Kirkland, WA 98033
Telephone: (425) 893-8991

King County: Department of Development and Environmental Services,
Land Use Services Division, *represented by*
Dave Sandstrom
900 Oakesdale Avenue Southwest
Renton, WA 98055-1219
Telephone: (206) 296-7165 Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

PRELIMINARY MATTERS:

Application or petition submitted:	September 24, 1999
Complete application:	January 18, 2000

EXAMINER PROCEEDINGS:

Hearing Opened:	August 17, 2000
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Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Access (drainage)
- Access (easement)

SUMMARY:

Approves proposed subdivision of 1.32 acres classified R-6 into 8 single-family residential building lots.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Owner/Developer:	Robert Brandt 225 – 4 th Avenue, Suite A603 Kirkland, WA 98033
Engineer:	Shawn O'Brien 16716 SE 28 th Street Bellevue, WA 98008
STR:	SE/SE 21-26-05
Location:	13303 – 132 nd Avenue NE, Kirkland, WA. Parcel #212605-9116
Zoning:	R6-SO
Acreage:	1.32 acres
Number of Lots:	8
Density:	6 dwelling units per acre
Typical Lot Size:	Ranges from 4,282 to 6,301 square feet
Proposed Use:	Detached single-family residential
Sewage Disposal:	Northshore Utility District
Water Supply:	Woodinville Water District
Fire District:	#36
School District:	Lake Washington School District #414
Complete Application Date:	January 18, 2000

2. **Proposal.** Robert Brandt (the "Applicant") proposes to subdivide a 1.32 acre parcel, located in the North Kirkland vicinity, into 8 single-family residential building lots. The proposed lot sizes range from approximately 4,282 to 6,301 square feet. Thus, the subdivision upon approval will obtain a density of 6 dwelling units per acre, within the minimum/maximum range established by the R-6 zoning classification. The preliminary plat drawing entered as Exhibit No. 7 illustrates the proposal. A copy of that preliminary plat drawing is appended as "Attachment 1" to the Department of Development and Environmental Services ("Department" or "DDES") Preliminary Report to the Examiner entered as Exhibit No. 2.
3. **State Environmental Policy Act.** On June 30, 2000, the Department issued a threshold determination of non-significance for the proposed development. That is, the Department published in the manner required by law its determination that an Environmental Impact Statement would not be required. That determination was based on the Department's review of the environmental checklist as well as a broad range of other relevant environmental documents. No agency, tribe, person or other entity appealed the Department's decision. The Department's environmental review record is incorporated in this record as well.
4. **Department Recommendation.** The Department recommends granting preliminary plat approval to the proposed plat of Brandt's North Kirkland Addition, subject to the conditions of final plat approval stated on pages 6 through 9 of the Department's Preliminary Report (Exhibit No. 2); *except* that Recommended Conditions No. 15 and 16 on page 8 of the Department's Preliminary Report are *deleted*. Those previously recommended conditions, dealing with ownership and maintenance of proposed Access Tracts D and C are superseded by Recommended Condition No. 7.e on page 6 of the Department's Preliminary Report which reads in part:

Since the Applicant has proposed detention tanks located within Tracts C and D, these tracts shall also be dedicated to King County, unless otherwise approved by DDES. Easements shall be provided within the tracts to accommodate access to the serving lots.
5. **Applicant's Response.** The Applicant accepts the Department's recommendation as described in Finding No. 4, preceding.
6. **Public Participation.** No person appeared to express interest in the proposed development.
7. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated August 17, 2000 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

DECISION:

The proposed plat of Brandt's North Kirkland Addition is GRANTED PRELIMINARY APPROVAL; SUBJECT to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density (and Minimum density) requirements of the R6-SO zone classification. All lots shall meet the minimum dimensional requirements of the R6-SO zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The existing house on lot 2 and outbuilding shall be removed prior to final recording.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.087 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as

shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file.”
 - d. Storm water facilities shall be designed using the KCRTS level 2 flow control standard. Water quality facilities shall also be provided using the basic water quality treatment menu as specified in the drainage manual. The size of the facilities and drainage tracts may have to increase to accommodate the required detention storage volumes and water quality designs.
 - e. Tract A shall be dedicated to King County for the purpose of drainage facilities. As specified on page 5-34 in the drainage manual, storm water detention tanks must also located with a tract owned by King County. Since the Applicant has proposed detention tanks located within tracts C and D, these tracts shall also be dedicated to King County, unless otherwise approved by DDES. Easements shall be provided within the tracts to accommodate access to the serving lots.
 - f. The downstream drainage course from the site includes an open channel swale, which conveys surface water through the adjacent property. Based upon field inspection, a portion of the swale located along the property line may require minor grading to provide a positive drainage outlet for discharge of storm water. During final engineering review, the Applicant shall demonstrate to the satisfaction of DDES that the downstream swale is designed to provide adequate conveyance of storm water. If off-site work is required to improve the open channel design, the Applicant shall secure permission from the adjoining property owner.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:

- a. NE 133rd Court shall be improved as an urban minor access street. The existing half street shall be completed as a full width road including a sidewalk on the south side and crowned road section. The roadway shall be designed to meet standards for stopping sight distance and landing requirements at the project entrance. As specified in KCRS 2.10, the entrance intersection shall be designed with a standard property line and curb radius rather than a driveway drop. The engineering plans shall also contain notes to address the requirements for vegetation clearing to assure compliance with standards for entering sight distance.
 - b. The existing driveway along the frontage of 132nd Avenue NE shall be removed and replaced with a vertical curb and level sidewalk. No additional frontage improvements are required along 132nd Avenue.
 - c. Tract C shall be improved as a joint use driveway serving lots 7 and 8. As specified in KCRS 3.01C, improvements shall include an 18 foot paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side.
 - d. Tract D shall be improved as a private access tract serving proposed lots 4, 5 and 6. As specified in KCRS 2.09B, road improvements shall comply with urban minor access designs; however, in the southern portion of Tract D the Applicant may transition the improvements from the minor access standard to a joint use driveway serving lots 5 and 6.
 - e. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
 - f. Street illumination shall be provided at intersections with arterials in accordance with KCRS 5.03.
 - g. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
9. King County Code 16.82.150D requires seasonal limitations for construction within the Northshore Community Planning Area. During the period October 1 through March 31, clearing and grading is not allowed unless certain provisions are complied with as outlined in the code. The Applicants engineering plans and construction procedures shall demonstrate compliance with the applicable code requirements.
 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 11. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be

placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. A final tree retention plan shall be submitted at the time of engineering plan review. The plan shall be consistent with the requirements of the Significant Trees Special Overlay District (SO-220). The plan shall be reviewed and approved concurrently with engineering plans.
14. There shall be no direct vehicular access to or from 132nd Avenue NE from those lots which abut it. A note to this effect shall be placed on the engineering plans and final plat.
15. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.18 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.)—minimum 400 square feet.
 - a. A fee-in-lieu of recreation space shall be paid by the Applicant to King County. The amount of the fee shall be determined by the King County Park System, consistent with the provisions of KCC 21A.14.185.
 - b. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - c. A detailed recreation space plan (i.e. landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - d. KCC 21A.14.190 requires subdivisions to provide tot/children play areas on site. The Applicant's proposal includes a 400-square-foot play area adjacent to the corner of NE 133rd Court and 132nd Avenue NE. A chain link or other similar fence shall be installed around the perimeter of the tot play area on site. This fence shall be reviewed and approved with the engineering plans, by DDES.
 - e. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
16. A homeowner's association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the

17. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):

- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
- b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
- c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The Applicant shall contact Metro Service Planning at 684-1622 to determine if 132nd Avenue NE is on a bus route. If 132nd Avenue NE is a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 21st day of August, 2000, to the following parties and interested persons:

C Shane Barnes
Robert Brandt
Roger Dorstad
Graham Hutchison
Dolores Jones
King County Envir Health Division
Linda Matlock
Amalia Monteros-Ricketts
Eleanor Moon
Roger Del Moral
New Home Trends
Shawn O'Brien

Carla and Diana Phelan
Timothy Roskam
Greg Borba
Steve Bottheim
Laura Casey
Kim Claussen
Peter Dye
Kristen Langley
Aileen McManus
Carol Rogers
David Sandstrom
Steven C. Townsend

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before September 4, 2000***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before September 11, 2000***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE AUGUST 17, 2000 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L99P3017 – BRANDT'S NORTH KIRKLAND ADDITION:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Dave Sandstrom and Pete Dye. Participating in the hearing and representing the Applicant was Robert Brandt. There were no other participants in this hearing.

The following exhibits were offered and entered into the record:

Exhibit No. 1 DDES File No. L99P3017

L99P3017-Brandt's N. Kirkland Addition

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- Exhibit No. 2 DDES Preliminary Report to the Hearing Examiner, dated August 17, 2000
- Exhibit No. 3 Application, dated December 21, 1999
- Exhibit No. 4 Environmental Checklist, dated September 10, 1999
- Exhibit No. 5 Declaration of Non-significance dated June 30, 2000.
- Exhibit No. 6 Affidavit of Posting indicating February 2, 2000 as date of posting and February 4, 2000 as the date the affidavit was received by DDES

- Exhibit No. 7 Revised Plat Map, dated July 17, 2000
- Exhibit No. 8 Land Use Map: vicinity map; Kroll map base
- Exhibit No. 9 Assessors Maps: SE 21-26-5, SW 22-26-5 and NE 28-26-5
- Exhibit No. 10 Level One Drainage Study, received December 21, 1999
- Exhibit No. 11 Offsite Drainage Study, received December 21, 1999
- Exhibit No. 12 Wetland Study, by del-Moral & Associates, received April 25, 2000
- Exhibit No. 13 Wetland Study, by del-Moral & Associates, received May 26, 2000

RST:sje

Plats/L99P3017 RPT